

**Notice of Allowability**

Application No.

09/405,269

Examiner

Marie R. Yamnitzky

Applicant(s)

ALBERTE ET AL.

Art Unit

1774

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment, IDS and Terminal Disclaimer received February 13, 2006.
2. ☒ The allowed claim(s) is/are 39, 47, 63, 66, 68, 70 and 74 (renumbered as 1-7, respectively).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                  |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>04262006</u> . |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date <u>rec'd 02/13/2006</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment  |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                                       | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance                         |
|  | 9. <input type="checkbox"/> Other _____.   |

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An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for the examiner's amendment to the claims, and to page 1, line 6 and page 8, line 14 of the specification, was given in a telephone interview with Michael DiVerdi on April 25, 2006. (The other changes to the specification, which update the status of the parent application or correct errors of a spelling and/or grammatical and/or typographical nature, were not specifically discussed with applicant's representative.)

The application has been amended as follows:

In the specification:

Page 1, the Related Application section added by amendment received June 04, 2003, has been amended to read as follows:

Related Applications

This Application is a continuation-in-part of United States Patent Application serial number 09/159,814, filed September 23, 1998, now abandoned.

Page 1, line 6: "can develop into biofilms" has been changed to --biofilms can develop--.

Page 8, line 14: "chlorosulfact" has been changed to --chlorosulfate--, and a period has been inserted at the end of the line.

Page 15, line 26: "refer" has been changed to --refers--.

Page 18, line 19: the second period after "protists" has been deleted.

Page 19, line 28: "carriers" has been changed to --carrier--.

Page 21, line 11: the second period after "use" has been deleted.

Page 21, line 23: "in" has been changed to --In--.

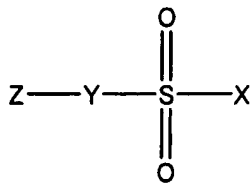
Page 36, line 5: --be-- has been inserted after "to".

Page 49, line 26: the second period after "acid" has been deleted.

In the claims:

1-38. (Canceled)

39. (Currently Amended) A coating comprising an effective amount of a compound represented by general structure 1:



1

wherein

X represents -OH, F, Cl, or Br;

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Y represents O;

Z represents ~~optionally substituted aryl or  $(\text{CH}_2)_m\text{R}_{80}$ , wherein when Z is substituted, a~~  
~~substituent is selected independently for each occurrence from the group consisting of alkyl and~~  
~~aralkyl~~ 4-(2-methylpropyl)phenyl, 4-(1,1-dimethylethyl)phenyl, 4-(1,1-dimethylpropyl)phenyl,  
4-pentylphenyl, 4-(1-methyl-1-phenylethyl)phenyl, or 4-(1-methylheptyl)phenyl;

~~R<sub>80</sub> represents aryl; and~~

~~m is an integer in the range 0 to 8 inclusive;~~

wherein when the coating is applied to a surface of an article the coating releases the compound  
and wherein the coating ~~is an aqueous,~~ comprises a phenolic resin, silicone polymer, epoxy resin,  
polyamide resin, vinyl resin, ~~elastomers~~ elastomer, acrylate ~~polymers~~ polymer, silicone ~~resins~~  
resin, polyester, chlorinated rubber, polyurethane, latex, or fluoropolymer ~~coating~~.

40-46. (Canceled)

47. (Previously Presented) The coating of claim 39, wherein X represents -OH or Cl.

48-62. (Canceled)

63. (Previously Presented) The coating of claim 39, wherein the coating is temporary.

64-65. (Canceled)

66. (Original) The coating of claim 39, wherein the release rate of the compound from the surface is in the range of about 1 to about 200  $\mu\text{gcm}^2\text{d}^{-1}$ .

67. (Canceled)

68. (Original) The coating of claim 39, wherein the release of the compound is a sustained release.

69. (Canceled)

70. (Previously Presented) The coating of claim 39, wherein the coating is formulated as a composition selected from the group consisting of paste, gel, liquid, wax, caulk, adhesive, and paint.

71-73. (Canceled)

74. (Original) The coating of claim 39, wherein the coating is employed as an agent selected from the group consisting of glue, cement and adhesive.

75-93. (Canceled)

Regarding the deletion of “aqueous” from claim 39, the examiner notes that this deletion does not exclude water from the claimed coating since the claim language is open, but excludes aqueous coatings that do not comprise at least one of the materials recited in the last three lines of the claim.

The terminal disclaimer filed on February 13, 2006, disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of any patent granted on Application No. 09/406,184, has been reviewed and is accepted. The terminal disclaimer has been recorded.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

2,190,733 (Richmond): In particular, see lines 23-38 of the first column on page 2.

3,133,949 (Rutkowski et al.): For example, see column 1, lines 23-31, c. 5, l. 30-52 and c. 7, l. 8-10.

4,243,549 (Messenger et al.): For example, see column 5, line 43.

5,057,533 (Tanaka et al.): For example, see Example 1.

5,292,532 (Bombart): For example, see column 2, lines 50-64 and c. 3, l. 1-10.

5,436,008 (Richter et al.): For example, see column 4, lines 50-54, c. 6, l. 20-51, and c. 7, l. 30-42.

5,833,963 (Mackles et al.): For example, see column 4, line 35.

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The patent numbers of the first four patents listed on the preceding page were provided to applicant's representative during a telephone interview on April 21, 2006 for related application 09/405,299. During the telephone interview of April 25, 2006, the examiner stated that those patents as well as additional relevant patents would be made of record in the present application.

The following is an examiner's statement of reasons for allowance:


The prior art does not disclose or suggest a coating comprising a compound of general structure 1 as defined in present claim 39 and comprising at least one of the materials recited in the last three lines of present claim 39 wherein the coating is capable of releasing the compound when the coating is applied to a surface of an article.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication should be directed to Marie R. Yamnitzky at telephone number (571) 272-1531. The examiner works a flexible schedule but can generally be reached at this number from 6:30 a.m. to 4:00 p.m. Monday, Tuesday, Thursday and Friday, and every other Wednesday from 6:30 a.m. to 3:00 p.m.

The current fax number for all official faxes is (571) 273-8300. (Unofficial faxes to be sent directly to examiner Yamnitzky can be sent to (571) 273-1531.)

MRY  
April 26, 2006

  
MARIE YAMNITZKY  
PRIMARY EXAMINER

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